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Federal Communications Commission

FCC 98-325

Before the
Federal Communications Commission
Washington, D.C. 20554

In re)	
)	
MARK A. RABENOLD)	CIB Docket No. 98-47
Oroville, Washington)	NAL Acct. No. 915HF0003
)	
Order to Show Cause Why a)	
Cease and Desist Order Should Not Be Issued)	

**CEASE AND DESIST ORDER AND
FORFEITURE ORDER**

Adopted: December 9, 1998

Released: December 11, 1998

By the Commission:

1. This proceeding began when the Commission released its Order to Show Cause and Notice of Opportunity for Hearing, FCC 98-63, April 6, 1998, ("OSC"). Therein, we ordered Mark A. Rabenold ("Rabenold") to show cause why a Cease and Desist Order should not be issued with regard to his unauthorized operation of a radio station on 105.1 MHz in Oroville, Washington. In addition, the OSC included a notice of opportunity for hearing pursuant to Section 1.80(g) of the Commission's Rules. 47 C.F.R. § 1.80(g). That aspect of the hearing was to determine whether Rabenold should be assessed a forfeiture for his apparent willful violation of Section 301 of the Communications Act of 1934, as amended ("Act"), 47 U.S.C. § 301.

2. By Order, FCC 98M-64, released June 1, 1998, Administrative Law Judge John M. Frysiak terminated the hearing proceeding because Rabenold failed to file a notice of appearance consistent with Section 1.91(c) of the Commission's Rules, 47 C.F.R. § 1.91(c). Rabenold had mailed a document entitled "COMMERCIAL AFFIDAVIT," dated April 15, 1998, to the Chief, Compliance and Information Bureau. However, this document only challenged the jurisdiction of the United States government with respect to this matter and did not state or imply an intent, as required by Section 1.91(c), to "appear at the hearing and present evidence on the matters specified in the [OSC]."¹ Pursuant to Section 1.92(c) of the Commission's Rules, the Judge certified the case to the Commission. 47 C.F.R. § 1.92(c).

3. The Commission's records, as detailed in the OSC, indicate that Rabenold has operated an unauthorized radio station on 105.1 MHz in Oroville, Washington, since at least August 21, 1997. Notwithstanding both written and oral warnings from agents of this Commission that his operations were illegal, Rabenold has continued to broadcast in violation of Section 301 of the Act. Rabenold has not availed himself of the opportunity for a hearing on this matter, or otherwise demonstrated a reason why the sanctions proposed in the OSC should not be adopted. Moreover, he has not sought appeal of the Order.

¹ For instance, Rabenold states: "Your papers were received, but not accepted, and are refused for cause without dishonor and without recourse to me and returned herewith because they are irregular, unauthorized, incomplete, and void process." Apart from his "COMMERCIAL AFFIDAVIT," no further communication was received from Rabenold, who did not participate in the pre-hearing conference held by the presiding Administrative Law Judge.

4. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 312(b) of the Act, 47 U.S.C. § 312(b), Mark A. Rabenold **IS ORDERED TO CEASE AND DESIST** from violating Section 301 of the Act, 47 U.S.C. § 301.

5. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b), 47 U.S.C. § 503(b) of the Act, Mark A. Rabenold **FORFEIT** to the United States of America the sum of eleven thousand dollars (\$11,000) for willful violations of Section 301 of the Act.² 47 U.S.C. § 301. Payment of the forfeiture shall be made, in U.S. dollars, by check, credit card or money order payable to the Federal Communications Commission.³ The remittance should be marked "NAL Acct. No. 915HF0003" and mailed to the following address:

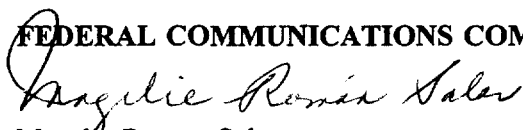
Federal Communications Commission
Post Office Box 73482
Chicago, IL 60673-7482

6. **IT IS FURTHER ORDERED** that the Office of Public Affairs, Reference Operations Division of the Commission send a copy of this Cease and Desist Order and Forfeiture Order by Certified Mail - Return Receipt Requested - to:

Mark A. Rabenold
960 Swanson Mill Road
Tonasket, Washington 98855⁴

7. **IT IS FURTHER ORDERED** that this proceeding **IS TERMINATED**.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas
Secretary

²The forfeiture amount was calculated by using the base amount \$10,000 for the violation at issue (construction and/or operation without an instrument of authorization for the service) which becomes \$11,000 with the inflation adjustment. See 47 U.S.C. § 503(b)(2)(C). See also 47 C.F.R. § 1.80(b)(4)(5). Claims of inability to pay should be supported by tax returns or other financial statements prepared under generally accepted accounting principles for the most recent three year period. This information must be submitted within 30 days of the release of this Order to: FCC, Compliance and Information Bureau, Compliance Division, 1919 M Street, N.W., Washington, D.C. 20554, attention: 915HF0003-ADJ

³ Requests for installment plans should be mailed to: Chief, Billings and Collections, Mail Stop 1110A2, 1919 M Street, N.W., Washington, D.C. 20554. Payment of the forfeiture in installments may be considered as a separate matter in accordance with Section 1.1914 of the Commission's Rules, 47 C.F.R. § 1.1914. Please contact Chief, Billings and Collections for information regarding credit card payments.

⁴ Although Rabenold apparently received the OSC at this address, it is understood that a later communication sent to this address by Certified Mail was returned with a report by the Postal Service that Rabenold had moved and left no forwarding address. The staff is authorized to take appropriate additional measures as may become necessary to ensure that Rabenold receives actual notice of this action.